



Agenda Date: 6/7/00

Agenda Item: IV-B

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)
CABLEVISION OF NEW JERSEY, INC. FOR)
RENEWAL OF A CERTIFICATE OF)
APPROVAL TO CONTINUE TO OPERATE)
AND MAINTAIN A CABLE TELEVISION)
SYSTEM IN THE CITY OF BAYONNE,)
COUNTY OF HUDSON, STATE OF NEW)
JERSEY)

RENEWAL CERTIFICATE OF APPROVAL

DOCKET NO. CE99100790

Schenck, Price, Smith & King, Morristown, New Jersey, by Sidney A. Sayovitz, Esq., for the Petitioner.

City Clerk, City of Bayonne, New Jersey, by Robert F. Sloan, for the City.

BY THE BOARD:

On October 24, 1979, the Board granted Cablevision Systems Corporation, d/b/a Cablevision of Bayonne ("Petitioner"), a Certificate of Approval in Docket No. 798C-6527 for the construction, operation and maintenance of a cable television system in the City of Bayonne ("City"). On November 7, 1990, the Board approved the renewal of the Petitioner's Certificate of Approval in Docket No. CE89070646, for a term of seven years. Although the Petitioner's Certificate expired on November 7, 1997, it is authorized to continue to provide cable television service to the City pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the City on April 1, 1997, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The City, after public hearing, adopted an ordinance on May 26, 1999, granting renewal municipal consent to the Petitioner. The Petitioner formally accepted the terms and conditions of the ordinance on July 6, 1999, in accordance with N.J.S.A. 48:5A-24.

On October 1, 1999, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the City. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, these qualifications were reviewed by the City in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.

2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is eight years from the date of issuance of the Renewal Certificate of Approval. The Office of Cable Television finds the duration to be reasonable.
5. The Petitioner shall provide service along any public right-of-way to any person's residence located in all areas of the franchise territory, at tariffed rates for standard or non-standard installation. All commercial entities shall be installed at commercial rates.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance must specify a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
8. The Petitioner will maintain a local business office in the City of Bayonne for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 685 Broadway in Bayonne, New Jersey.
9. The franchise fee to be paid to the City is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the City. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall implement a senior citizens/disabled discount for persons meeting the eligibility requirements pursuant to N.J.S.A. 30:4D-21 and N.J.A.C. 14:18-3.20, in the amount of 25% of the monthly basic service rate.
11. The Petitioner will provide public, educational, and governmental ("PEG") access services, technical support, training and facilities as described in the application and the municipal consent ordinance. The Petitioner shall provide one governmental access channel, one educational access channel and one public access channel. The educational access channel and the governmental access channel shall be dedicated to the City.
12. The Petitioner shall make available for the expenditure of the City the sum of \$4,000.00 per year for the purchase or replacement of video production equipment. To make use of the funds, the City shall request in writing that the Petitioner provide the specified equipment or repair. The Petitioner shall provide

such technical assistance and support as is reasonably requested by the City, with respect to the installation, maintenance and use of the equipment provided; the Petitioner will provide technical assistance and training to facilitate production of government, educational and public access programming.

13. The Petitioner shall conduct at least two training courses per year for public access users. The Petitioner shall also provide an internship-training program for high school students, at least annually, upon request.
14. The Petitioner, at its own expense, shall produce programming for no less than 15 City events per year, which shall be aired on its local origination channel. The Petitioner shall provide studio, editing and portable equipment throughout the term of franchise to meet the public access needs in the City.
15. The Petitioner shall continue to provide the standard installation of one outlet and basic cable service to each of the City's schools, public or private, free of charge. The Petitioner shall continue to provide the installation of one outlet and basic cable service to City Hall, the fire department, the police department and the three branches of the public library, free of charge. The Petitioner shall upgrade each school and public building to the level of Optimum Service as specified in the ordinance.
16. The Petitioner shall continue to maintain the Institutional Network ("I-NET") installed in the City's firehouses during the previous franchise. The Petitioner shall construct, install and maintain an additional I-NET consisting of fiber based networking connections at five municipal facilities designated by the City. The I-Net shall provide the capacity of exchanging data, audio and video images.
17. The Petitioner shall provide each school and other municipal location listed above with high speed cable access via one cable modem service, as soon as same is made available to the City's subscribers.

It is noted that one provision of the application, filed by the Petitioner and incorporated into the ordinance, requires clarification and could be construed to be in violation of the New Jersey State Cable Act, N.J.S.A. 48: 5A-1 et seq. Specifically the application states under the heading Removal of Facilities that upon expiration, termination or revocation of the franchise, the Petitioner shall remove the cable plant at the direction of the City. Notwithstanding any changes to the circumstances of the franchise as noted within the application, the Board is the "franchising authority" and is the entity that regulates the placement or removal of cable plant on the poles. N.J.S.A. 48:5A-37 requires that the discontinuance or suspension of service shall be done only with prior approval of the Board. Purposes contained in the petition beyond those defined in N.J.S.A. 48:5A-22 are prohibited by the Board. Therefore, the application is clarified to state that the Petitioner shall only remove plant as directed and approved by the Board.

Based upon these findings, the Board HEREBY CONCLUDES that pursuant to N.J.S.A. 48:5A-17 and 28, the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence

of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire eight years from the date of issuance.

DATED: June 7, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

CARMEN J. ARMENTI
COMMISSIONER

(signed)

ATTEST:

FREDERICK F. BUTLER
COMMISSIONER

(signed)

EDWARD BESLOW
ACTING BOARD SECRETARY